pending, consolidated; or the original two plaintiffs could apply to have the Co-operative Bank joined as a third plaintiff.

On the face of it the second of these courses would seem to be that favoured by considerations both of convenience and economy (I express no definitive opinion on the point) and it was the course that was followed.

On 21st June, 1962, the second plaintiffs applied to the High Court for an order adding the Co-operative Bank as plaintiffs. This application was not opposed by the defendants and in due course an order was made in terms as prayed. That order was made on 25th June, 1962, and some ten days later, on 4th July, an amended statement of claim was filed giving effect to that order.

Nothing was done by the defendants for over three months and then, on 19th October, they applied to a Judge in Chambers for an order to strike out the name of the Co-operative Bank as a plaintiff. That application was dismissed.

Against that order of dismissal the defendants applied to the Court of Appeal. That appeal was unsuccessful and we are now asked to say that it is a case which we consider a fit one for further appeal to His Majesty.

For myself I propose for the purpose of the present application to assume that the Judge was wrong and that the Court of Appeal was wrong, in the sense that the course of reasoning which led the Court of Appeal to its decision was erroneous. In my view that is a correct approach to a matter of this nature. Everything must be presumed in favour of the applicant.

But assuming all that, I think, particularly in procedural matter of this nature, the applicant must show us that there is at least an arguable case for reversing the conclusion at which the Court of Appeal arrived. He must show us that not only are there defects in the chain of reasoning which led to the result but he must also show us that he has been deprived of something to which he is entitled, he was in some way prejudiced and that he is in some way likely to suffer in consequence, if the decision against which he appeals is allowed to stand.

For myself I am sorry to have to say I have failed to discern any such consideration in the argument which has been addressed to us.

Admittedly the sum of money involved is a very large one. One consequence of that, of course, would seem to be that there is a great deal to be said for the liabilities and rights of the parties being disposed of at an early date. It does seem to me, however, that the only results if we countenance this appeal will be to increase the delay which has already been considerable and to increase the costs which clearly are already considerable and are clearly going to be very, very much greater before the matter is finally concluded. In any event, and this seems to me a conclusive argument, if a further appeal were allowed and were successful it would in no way protect the defendants against the contemplated attack on them by the Co-operative Bank. Counsel has assured us there is no question of limitation involved in the matter and clearly if a further appeal were taken and if it were successful the course would still be open to the Co-operative Bank to issue a separate writ. And then everybody would be back where they started.

For myself, therefore, I would refuse leave and would dismiss the application with costs.

Wee Chong Jin C.J. (Singapore) and **Tan Ah Tah J.** concurred.

Application dismissed.

Solicitors: *Donaldson & Burkinshaw; Lee & Lee.*

SUM KUM v. DEVAKI NAIR & ANOR.

[F.C. (Thomson L.P., Wee Chong Jin C.J. (Singapore) & Tan Ah Tah J.) December 19, 1963]

[Singapore — Federal Court Civil Appeal No. 22 of 1963]

Damages—Fatal accident—Dependency—Amount of —Insufficient evidence adduced at trial.

In an action for damages it is for the plaintiff to prove his damages, it is not enough to write down the particulars, and "throw them at the head of the Court, saying: 'This is what I have lost; I ask you to give me this damages'." He has to prove it.

Case referred to:—

(1) *Bonham-Carter* v. *Hyde Park Hotel, Ltd.* (1948), 64 T.L.R. 177, 178.

FEDERAL COURT. Appeal from Muar High Court.

Denis Murphy for the appellant.

V. C. George for the respondent.

Wee Chong Jin C.J. This appeal only relates to the quantum of damages awarded in a running-down case.

The deceased's income, according to the case for the plaintiffs, came from two businesses — one in Cha'ah and one in Segamat. The business at Cha'ah, according to the evidence of the plaintiffs, was run by the deceased and the business at Segamat was run by the deceased's widow. The evidence of the plaintiffs is that the nett income from the Segamat business, which was a tuckshop catering for two schools in Segamat, was used by the widow for expenses in connection with the running of the household.

The learned trial Judge in his judgment accepted the plaintiffs' evidence as to the business at Cha'ah and also accepted the plaintiffs'

evidence given in examination-in-chief that the deceased ran the tuckshop at Segamat with the assistance of his wife. On that basis he assessed the contribution from the deceased to the family at $250 a month.

The only ground of appeal is that the learned trial Judge failed to take into account the fact that in respect of the Segamat business the widow, by her own exertions, contributed towards the household expenses.

In my view the evidence on record clearly discloses that the deceased took no part in the business at Segamat and to that extent the learned trial Judge misapprehended the facts in this particular case when he arrived at the sum of $250 a month as the value of the dependency.

It is conceded by counsel for the respondents that the deceased would have had to pay $70 to $80 a month to employ someone to take the place of the widow on the assumption that she did not run the business at Segamat.

In my view, the amount of the dependency, bearing in mind that the evidence in respect of the Cha'ah business was so unsatisfactory, should be at a figure of $180 a month and on that figure, according to the figures available and accepting the learned trial Judge's finding on life expectation to be 13 years (which has not been disputed in this appeal), I would substitute the amount to be awarded as general damages at $20,282.40 and I would, therefore, allow the appeal to the extent that the total amount of damages should be reduced by the difference between $28,170 and $20,282.40.

Thomson L.P.: I agree with what my Lord has said and I also agree with his conclusion that the damages for loss of support should be reduced to $20,282.40.

I would, however, add one observation of a general nature. This is by no means the first appeal this Court and its predecessor have had to deal with in which somewhat insufficient attention has been given at the trial to the question of giving adequate evidence on the question of quantum of damages. It is for counsel in such cases to devote a little more attention to that aspect of the matter in future. As Lord Goddard said in the case of *Bonham-Carter* v. *Hyde Park Hotel, Ltd.*[1]:—

"Plaintiffs must understand that if they bring actions for damages it is for them to prove their damage; it is not enough to write down the particulars, and, so to speak, throw them at the head of the Court, saying: 'This is what I have lost; I ask you to give me these damages'. They have to prove it."

The appeal is allowed; the general damages for loss of support are reduced to $20,282.40; the appellant will have his costs and the deposit should be paid out to the appellant.

Tan Ah Tah J. concurred.

Appeal allowed.

Solicitors: *Murphy & Dunbar; George & Khoo.*

ABDUL MAJEED v. YEO CHNG TAY

[F.C. (Thomson L.P., Barakbah C.J. (Malaya) & Wylie C.J. (Borneo)) January 7, 1964]

[K.L. — Federal Court Civil Application No. 44 of 1963]

Practice and Procedure—Appeal—Leave to—Out of Time—Mistake of legal adviser.

Federal Court (Civil Appeals) (Transitional) Rules, 1963, r.13—"Special leave"—Meaning of—Courts Ordinance, 1948, s. 37.

The ground on which special leave to appeal was asked for in this application was that applicant's legal adviser had made a mistake. He was under the erroneous impression that it was a case where leave was required under section 37 of the Courts Ordinance and by reason of that mistake got himself out of time for appealing in the ordinary way.

Held: such a mistake was not a sufficient ground for granting the application.

"Special leave" means leave to be granted on account of special circumstances.

Cases referred to:—

(1) *Re Macadam* [1950] 1 All E.R. 659.

(2) *Wilkins* v. *Wilkins* [1951] M.L.J. 80.

(3) *Butler-Madden* v. *Krishnasamy* [1947] M.L.J. 182.

(4) *Re Coles and Ravenshear* [1907] 1 K.B. 1.

(5) *Catti* v. *Shoosmith* [1939] 3 All E.R. 916.

FEDERAL COURT.

S. Kulasekaram for the applicant.

S. T. Chung for the respondent.

The judgment of the Court was delivered by,

Thomson L.P. (delivering oral judgment): This application has now resolved itself into an application for leave to appeal out of time.

The matter is now governed by Rule 13 of the Federal Court (Civil Appeals) (Transitional) Rules which requires special leave of the Federal Court. It reads:—

"No appeal shall, except by special leave of the full Court, be brought after the expiration of one month."

The ground on which special leave is asked is that the legal adviser of the applicant has made a mistake. He was under the erroneous impression that it was a case where leave was required under section 37 of the Courts Ordinance and by reason of that mistake got himself out of time for appealing in the ordinary way.

We have considered the matter carefully and we have come to the conclusion that special leave means leave to be granted on account of special circumstances.

In view of the decision of the English Court